

ORIGINAL

Approved: Pat. R. Moroney
PATRICK R. MORONEY
Assistant United States Attorney

Before: THE HONORABLE JENNIFER E. WILLIS
United States Magistrate Judge
Southern District of New York

22 MAG 9255

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: UNITED STATES OF AMERICA :
: - v. - :
: VICTOR FORTUNA, :
: Defendant. :
----- X
: SEaled COMPLAINT :
: Violations of :
: 18 U.S.C. §§ 641, 1709, :
: and 2 :
: COUNTY OF OFFENSE: :
: NEW YORK :

SOUTHERN DISTRICT OF NEW YORK, ss.:

WILLIAM MATELSKI, being duly sworn, deposes and says that he is a Special Agent with the United States Postal Service ("USPS") Office of Inspector General, and charges as follows:

COUNT ONE
(Theft of Government Funds)

1. From at least in or about September 2021, up to and including in or about March 2022, in the Southern District of New York and elsewhere, VICTOR FORTUNA, the defendant, did knowingly embezzle, steal, purloin, and convert to his use and the use of another, and without authority did sell, convey, and dispose of records, vouchers, money, and things of value of the United States and a department and agency thereof, which exceeded the sum of \$1,000, and did receive, conceal, and retain the same with intent to convert it to his use and gain, knowing it to have been embezzled, stolen, purloined and converted, to wit, FORTUNA used his position as a USPS mail carrier to obtain at least \$54,600 in United States Department of Treasury ("Treasury Department") checks made out to other individuals whose identities had been stolen.

(Title 18, United States Code, Sections 641 and 2.)

COUNT TWO

(Theft of Mail by a Postal Employee)

2. From at least in or about September 2021, up to and including at least in or about March 2022, in the Southern District of New York and elsewhere, VICTOR FORTUNA, the defendant, being a Postal Service officer and employee, knowingly did embezzle letters, postal cards, and mail, and articles and things contained therein entrusted to him and which came into his possession intended to be conveyed by mail, and carried and delivered by a carrier, messenger, agent, and other person employed in a department of the Postal Service, and forwarded through and delivered from a post office and station thereof established by authority of the Postmaster General and of the Postal Service, and did steal, abstract, and remove from such letters, postal cards, and mail, articles and things contained therein, to wit, FORTUNA, a Postal Service employee, removed and stole at least \$54,600 in Treasury Department checks that were sent through the mail to individuals whose identities had been stolen.

(Title 18, United States Code, Section 1709.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I am a Special Agent with the USPS Office of Inspector General, and I have been personally involved in the investigation of this matter. This affidavit is based on, among other things, my review of law enforcement reports and video surveillance, as well as my discussions with other law enforcement officers. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

COVID-19 Stimulus Checks

4. Based on my communications with members of the Internal Revenue Service ("IRS"), as well as my review of publicly available information, I know the following.

a. In March 2021, Congress enacted the American Rescue Plan Act of 2021 ("American Rescue Plan"). Among other provisions, the American Rescue Plan provided for "Economic

Impact Payments," providing up to \$1,400 per qualifying adult, which generally included those who reported an adjusted gross income of less than \$75,000.

b. The Treasury Department determined eligibility by reference to an individual's 2019 or 2020 federal tax return (whichever return reported a lower adjusted gross income).

c. Generally, once an individual was determined to be eligible for an Economic Impact Payment, the Treasury Department mailed a check to the individual at the address listed on the individual's tax return.

FORTUNA's Theft of Economic Impact Payments

5. Based on my review of video surveillance and reports from the United States Postal Inspection Service and USPS Office of the Inspector General (collectively, "USPS-OIG"), as well as my conversations with other members of law enforcement, including with members of the IRS, I have learned the following, in substance and in part:

a. VICTOR FORTUNA, the defendant, works as a USPS mail carrier. Since at least in or around September 2021, FORTUNA has delivered mail along a route in the Manhattan zip code of 10022.

b. On or about September 30, 2021, FORTUNA was not at work and a substitute mail carrier (the "Substitute Carrier") delivered the mail for FORTUNA's usual route. The Substitute Carrier noticed a large number of Treasury Department checks addressed to buildings along FORTUNA's route.¹ The Substitute Carrier also noticed that the names of the recipients to which the checks were addressed did not appear to match the names of the individuals listed at the mailboxes at the residences. Accordingly, the Substitute Carrier returned the Treasury Department checks to a supervisor, who provided the checks to USPS-OIG.

¹ It is apparent that these letters contain checks because the envelope reflects that the letter was sent by the Treasury Department, the phrase "Pay to order of" is visible on the envelope next to the recipient's name, and the top of the envelope containing the check states: "Forgery of endorsements on Treasury checks is a federal crime."

c. The Postal Agents determined that there were 89 checks returned by the Substitute Carrier (the "Seized Checks"). All of the checks were addressed to buildings in zip code 10022.

d. On or about December 16, 2021, USPIS-OIG released ten of the Seized Checks (the "First Batch") for FORTUNA to deliver. Agents provided the First Batch of checks to a supervisor, who then confirmed that the checks had been placed with the other mail for FORTUNA to deliver. Agents also observed FORTUNA retrieve his route's mail for delivery and later depart from the mail room floor.

e. When agents later attempted to visit the addresses associated with the First Batch of checks, they noticed that many of the apartments did not exist (for example, a check was addressed to an apartment ending in "D" on a floor that only had apartments "A" through "C"). I understand from conversations with a member of the IRS that nine of the ten checks from the First Batch were cashed. Each check was a \$1,400 American Rescue Plan Economic Impact Payment.

f. On or about February 1, 2022, agents from USPS-OIG and IRS released ten more of the Seized Checks (the "Second Batch") for FORTUNA to deliver. When doing so, agents performed additional surveillance of FORTUNA on the mail room floor. Agents observed FORTUNA appear to review the ten checks in the Second Batch and then perform calculations on his cellphone. Specifically, agents observed FORTUNA use the calculator function on his phone to type "1400," which he multiplied by "10," and then by "30," as shown below.



g. As with the First Batch, each of the checks in the Second Batch was a \$1,400 American Rescue Plan Economic Impact Payment. Based on my training and experience, as well as my participation in this investigation, I believe that FORTUNA was multiplying \$1,400 - the amount of each check - by 10, which corresponds to the number of checks in the Second Batch. FORTUNA then multiplied the resulting total (\$14,000) by 30.

h. After FORTUNA left the mail room floor with his mail to deliver for the day - which included the Second Batch of checks - agents attempted to perform surveillance of FORTUNA on his route. Approximately one hour after agents observed FORTUNA walking in the vicinity of two buildings to which several of the Second Batch of checks were addressed, agents opened the "cluster boxes" at those two buildings (that is, the building's mailbox that the USPS mail carrier accesses, which has a separate space for each apartment's mailbox). Agents did not observe any Treasury Department checks in the cluster box (or in any apartment's mailbox) at either building.

i. Approximately 30 minutes after FORTUNA finished his shift that afternoon and returned to the post office, agents inspected the waste bin closest to FORTUNA's workstation, as well as the other boxes where FORTUNA would have placed mail that he had been unable to deliver. Agents did not find any Treasury Department checks. All ten of the Second Batch of checks were eventually cashed.

j. On or about March 31, 2022, agents performed additional surveillance of FORTUNA. USPS-OIG provided 20 more of the Seized Checks (the "Third Batch") to a supervisor, who placed the checks with the rest of the mail for FORTUNA to deliver. Agents observed FORTUNA leave the mail room floor. After FORTUNA appeared to pass by several of the buildings to which the Third Batch of checks had been addressed, agents checked several of the buildings' cluster boxes and did not find any Treasury Department checks.

k. After FORTUNA returned to the mail room floor and completed his shift for the day, agents checked his workstation area and did not find any Treasury Department checks. All 20 of the checks in the Third Batch were cashed; each check was a \$1,400 American Rescue Plan Economic Impact Payment.

l. In total, at least 39 of the Seized Checks that had been released to FORTUNA were cashed. Those checks totaled \$54,600.

6. I know, from communications with other members of law enforcement, that agents conducted interviews of three individuals (the "Victims") to whom Seized Checks had been addressed. Two of the Victims were the purported recipients of checks in the First Batch, and the other Victim was a purported recipient of a check in the Second Batch. The checks made out to each of the three Victims had been cashed. Based on my communications with other members of law enforcement, and my review of documents provided by members of the IRS, I learned the following:

a. Each of the Victims confirmed that his or her Social Security number was the same as the Social Security number associated with the Treasury Department check that had been purportedly sent to each Victim.

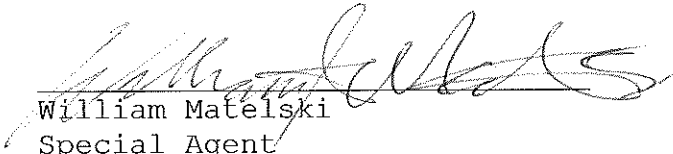
b. Each of the Victims resides in Puerto Rico and has never filed a federal tax return before. Based on my conversations with a member of the IRS, I know that a federal tax return was filed in each Victim's name in or around September 2021. Those federal tax returns were associated with

addresses in the Manhattan zip code of 10022 to which each Victim's check was sent.

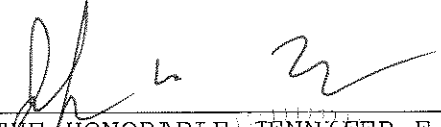
c. None of the Victims has ever lived at an address in New York City.

d. None of the Victims authorized anyone to file a federal tax return on their behalf. Nor did any of the Victims receive or cash a \$1,400 check from the Treasury Department in 2021 or 2022.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of VICTOR FORTUNA, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.


William Matelski
Special Agent
United States Postal Service
Office of Inspector General

Sworn to before me, this 16th day of November, 2022.


THE HONORABLE JENNIFER E. WILLIS
United States Magistrate Judge
Southern District of New York

